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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

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`ILIO`ULAOKALANI COALITION,) CIVIL NO. 04-00502 DAE BMK
a Hawaii, nonprofit corporation;)
NA `IMI PONO, a Hawaii)
unincorporated association; and) ORDER DENYING PLAINTIFFS
KIPUKA, a Hawaii unincorporated) `ILIO`ULAOKALANI COALITION,
association,) NA `IMI PONO, AND KIPUKA'S
) MOTION TO FILE SECOND
Plaintiffs,) AMENDED COMPLAINT AND
) TO JOIN NECESSARY PARTIES
v.)
)
DONALD H. RUMSFELD, Secretary of)
United States Department of)
Defense; and FRANCIS J. HARVEY,)
Secretary of the United States)
Department of the Army,)
)
Defendants.)
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ORDER DENYING PLAINTIFFS `ILIO`ULAOKALANI COALITION,
NA `IMI PONO, AND KIPUKA'S MOTION
TO FILE SECOND AMENDED COMPLAINT AND TO JOIN NECESSARY PARTIES

On November 16, 2006, Plaintiffs `Ilio`ulaokalani, Na `Imi Pono, and Kipuka's Motion to File Second Amended Complaint and to Join Necessary Parties came on for hearing before the Honorable Barry Kurren. David L. Henkin appeared on behalf of Plaintiffs. Edric Ching and James Gette appeared on behalf of Defendants.

For the reasons stated in open court, and based on the memoranda submitted by the parties and the arguments of counsel, the Court concludes that:

1. Notwithstanding the fact the Ninth Circuit has not yet issued the mandate, this Court has jurisdiction to take appropriate actions with respect to injunctive relief, including acting on plaintiffs' motion;
2. While it was appropriate for plaintiffs to wait until this stage of the litigation to bring their motion, since it pertains to remedy, rather than liability, the Court is nonetheless concerned about unnecessarily complicating the resolution of issues related to injunctive relief or burdening either the Campbell Estate or Parker Ranch (collectively, "the former landowners") by joining them as parties at this time;

3. The parties to be joined are not necessary to the determination of how the lands in question will be used should the lands remain in the Army's possession; and
4. Before the Court rules definitively on plaintiffs' motion, Judge Ezra should first determine whether the Court will entertain as part of a possible remedy in this case setting aside either of the land transfers at issue herein.

FOR THE FOREGOING REASONS, IS HEREBY ORDERED that Plaintiffs' Motion to File Second Amended Complaint and to Join Necessary Parties is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.



/s/ Barry M. Kurren
United States Magistrate Judge
Dated: December 12, 2006

APPROVED AS TO FORM:

/s/ David L. Henkin

DAVID L. HENKIN
EARTHJUSTICE

Attorney for Plaintiffs
`ILIO`ULAOKALANI, NA `IMI PONO,
AND KIPUKA